

108TH CONGRESS  
1ST SESSION

# S. 1756

To amend the Internal Revenue Code of 1986 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by providing additional sources of revenue to the Fund, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2003

Mr. CONRAD (for himself, Mr. SMITH, Mr. BREAUX, Mr. COCHRAN, Ms. LANDRIEU, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by providing additional sources of revenue to the Fund, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE, ETC.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Coal Industry Retiree Health Benefit Stability and Fair-  
4 ness Act”.

5 (b) AMENDMENT OF 1986 CODE.—Except as other-  
6 wise expressly provided, whenever in this Act an amend-  
7 ment or repeal is expressed in terms of an amendment  
8 to, or repeal of, a section or other provision, the reference  
9 shall be considered to be made to a section or other provi-  
10 sion of the Internal Revenue Code of 1986.

11 (c) TABLE OF CONTENTS.—The table of contents for  
12 this Act is as follows:

Sec. 1. Short title, etc.

**TITLE I—FINANCING PROVISIONS**

**Subtitle A—Federal Funds**

Sec. 101. Mandatory transfer of general funds to Combined Benefit Fund.

Sec. 102. Annual audit.

Sec. 103. Appointment of Government trustees.

**Subtitle B—Premiums**

Sec. 111. Modifications of premiums to reflect transfers from general fund.

Sec. 112. Refunds to certain operators.

Sec. 113. Reduction in annual premiums to Combined Benefit Fund if surplus  
exists.

Sec. 114. Refund of contributions paid by certain small entities to United Mine  
Workers Combined Benefit Fund.

Sec. 115. First year payments of 1988 operators.

Sec. 116. Liability in the event of prefunding.

Sec. 117. Definition of successor in interest.

**TITLE II—RETROACTIVE PROVISIONS**

Sec. 201. Reform of retroactive provisions of Coal Industry Health Benefit Sys-  
tem.

**TITLE I—FINANCING**  
**PROVISIONS**  
**Subtitle A—Federal Funds**

**SEC. 101. MANDATORY TRANSFER OF GENERAL FUNDS TO**  
**COMBINED BENEFIT FUND.**

(a) IN GENERAL.—Section 9705 (relating to transfers to the Combined Benefit Fund) is amended by adding at the end the following new subsection:

“(c) MANDATORY TRANSFERS FROM GENERAL FUND.—

“(1) IN GENERAL.—There are hereby authorized and appropriated, out of any amounts in the Treasury not otherwise appropriated, to the Combined Fund such sums as may be necessary to—

“(A) pay any benefit or administrative costs of unassigned beneficiaries of the Combined Fund remaining after the transfer under subsection (b), and

“(B) eliminate any annual deficit in any premium account of the Combined Fund as certified by the Trustees of the Combined Fund.

Deficits referred to in subparagraph (B) shall be certified by the trustees only after utilizing and taking into account all premiums and other government reimbursements to the Fund.

1           “(2) USE OF FUNDS.—Any amounts trans-  
 2           ferred under paragraph (1) shall be available with-  
 3           out fiscal year limitation.

4           “(3) TRANSFER.—The Secretary of the Treas-  
 5           ury shall transfer amounts appropriated under para-  
 6           graph (1) on October 1 of each fiscal year.”.

7           (b) TRANSFER FROM ABANDONED MINE RECLAMA-  
 8           TION FUND.—Section 9705(b)(2) (relating to use of  
 9           funds) is amended to read as follows:

10           “(2) USE OF FUNDS.—Any amount transferred  
 11           under paragraph (1) for any fiscal year shall be used  
 12           to pay any benefit or administrative costs of unas-  
 13           signed beneficiaries of the Combined Fund for the  
 14           plan year in which transferred.”

15           (c) EFFECTIVE DATE.—The amendments made by  
 16           this section shall apply to fiscal years beginning after Sep-  
 17           tember 30, 2003.

18   **SEC. 102. ANNUAL AUDIT.**

19           (a) IN GENERAL.—Section 9702 (relating to estab-  
 20           lishment of the Combined Fund) is amended by adding  
 21           at the end the following:

22           “(d) ANNUAL AUDIT.—

23           “(1) AUDIT.—The Comptroller General of the  
 24           United States shall conduct an annual audit of the  
 25           Combined Fund. Such audit shall include—

1           “(A) a review of the progress the Com-  
 2           bined Fund is making toward a managed care  
 3           system as required under this subchapter, and

4           “(B) a review of the use of, and necessity  
 5           for, amounts transferred to the Combined Fund  
 6           under section 9705(c).

7           “(2) REPORT.—The Comptroller General shall  
 8           report the results of any audit under paragraph (1)  
 9           to the Secretary of the Treasury and to the appro-  
 10          priate committees of Congress, including the Comp-  
 11          troller General’s recommendations (if any) as to any  
 12          administrative savings which may be achieved with-  
 13          out reducing the effective level of benefits under sec-  
 14          tion 9703.”.

15          (b) EFFECTIVE DATE.—The amendment made by  
 16          subsection (a) shall apply to plan years of the Combined  
 17          Fund beginning after the date of the enactment of this  
 18          Act.

19   **SEC. 103. APPOINTMENT OF GOVERNMENT TRUSTEES.**

20          (a) IN GENERAL.—Section 9702(b)(1) (relating to  
 21          the Board of Trustees), as amended by section 201(c), is  
 22          amended by striking “and” at the end of subparagraph  
 23          (B), by striking the period at the end of subparagraph  
 24          (C) and inserting “; or”, and by inserting after subpara-  
 25          graph (C) the following new subparagraph:

1 “(D) 2 persons designated by the Sec-  
 2 retary of the Treasury.”

3 (b) EFFECTIVE DATE.—The amendments made by  
 4 this section shall take effect on the date of the enactment  
 5 of this Act.

## 6 **Subtitle B—Premiums**

### 7 **SEC. 111. MODIFICATIONS OF PREMIUMS TO REFLECT** 8 **TRANSFERS FROM GENERAL FUND.**

9 (a) ELIMINATION OF UNASSIGNED BENEFICIARIES  
 10 PREMIUM.—Section 9704(d) (establishing unassigned  
 11 beneficiaries premium) is amended to read as follows:

12 “(d) UNASSIGNED BENEFICIARIES PREMIUM.—

13 “(1) PLAN YEARS ENDING ON OR BEFORE SEP-  
 14 TEMBER 30, 2003.—For plan years ending on or be-  
 15 fore September 30, 2003, the unassigned bene-  
 16 ficiaries premium for any assigned operator shall be  
 17 equal to the applicable percentage of the product of  
 18 the per beneficiary premium for the plan year multi-  
 19 plied by the number of eligible beneficiaries who are  
 20 not assigned under section 9706 to any person for  
 21 such plan year.

22 “(2) PLAN YEARS BEGINNING ON OR AFTER OC-  
 23 TOBER 1, 2003.—For plan years beginning on or  
 24 after October 1, 2003, there shall be no unassigned  
 25 beneficiaries premium.”.

1 (b) PREMIUM ACCOUNTS.—

2 (1) CREDITING OF ACCOUNTS.—Section  
3 9704(e)(1) (relating to premium accounts; adjust-  
4 ments) is amended by inserting “and amounts trans-  
5 ferred under section 9705 (b) or (c)” after “pre-  
6 miums received”.

7 (2) SHORTFALLS.—Section 9704(e)(3) (relating  
8 to shortfalls and surpluses) is amended—

9 (A) by striking “shortfall or” each place it  
10 appears in subparagraph (A),

11 (B) by striking “reduced or increased,  
12 whichever is applicable,” in subparagraph (A)  
13 and inserting “reduced”,

14 (C) by striking “or the unassigned bene-  
15 ficiaries premium account” in subparagraph  
16 (B), and

17 (D) by striking “SHORTFALLS AND SUR-  
18 PLUSES” in the heading and inserting “SUR-  
19 PLUSES”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to plan years of the Combined  
22 Fund beginning after September 30, 2003.

1 **SEC. 112. REFUNDS TO CERTAIN OPERATORS.**

2 (a) IN GENERAL.—Section 9704 (relating to the li-  
3 ability of assigned operators) is amended by adding at the  
4 end the following new subsection:

5 “(j) REFUNDS TO CERTAIN OPERATORS.—The Com-  
6 bined Fund shall, before December 31, 2003, refund to  
7 an assigned operator which was an assigned operator prior  
8 to the date of the enactment of this subsection (and any  
9 related person to such operator) an amount equal to the  
10 sum of—

11 “(1) any amount paid by such operator or per-  
12 son to the Combined Fund (and not previously re-  
13 funded) by reason of the operator having been a sig-  
14 natory to a pre-1974 coal wage agreement, and

15 “(2) interest on the amount under paragraph  
16 (1) at the overpayment rate established under sec-  
17 tion 6621 for the period from the payment of such  
18 amount to the refund under this subsection.”

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall take effect on the date of the enact-  
21 ment of this Act.

22 **SEC. 113. REDUCTION IN ANNUAL PREMIUMS TO COM-**  
23 **BINED BENEFIT FUND IF SURPLUS EXISTS.**

24 (a) IN GENERAL.—Part II of subchapter B of chap-  
25 ter 99 (relating to financing of Combined Benefit Fund)



1 is amended by inserting after section 9704 the following  
 2 new section:

3 **“SEC. 9704A. REDUCTIONS IN HEALTH BENEFIT PREMIUM**  
 4 **IF SURPLUS EXISTS.**

5 “(a) GENERAL RULE.—If this section applies to any  
 6 plan year, the per beneficiary premium used for purposes  
 7 of computing the health benefit premium under section  
 8 9704(b) for the plan year shall be the reduced per bene-  
 9 ficiary premium determined under subsection (c).

10 “(b) YEARS TO WHICH SECTION APPLIES.—

11 “(1) IN GENERAL.—This section applies to any  
 12 plan year beginning after September 30, 2003, if the  
 13 trustees determine that the Combined Fund has an  
 14 excess reserve for the plan year.

15 “(2) EXCESS RESERVE.—For purposes of this  
 16 section—

17 “(A) IN GENERAL.—The term ‘excess re-  
 18 serve’ means, with respect to any plan year, the  
 19 excess (if any) of—

20 “(i) the projected net assets as of the  
 21 close of the test period for the plan year,  
 22 over

23 “(ii) the projected 3-month asset re-  
 24 serve as of such time.

1           “(B) PROJECTED NET ASSETS.—For pur-  
2           poses of subparagraph (A)(i), the projected net  
3           assets shall be the amount of the net assets  
4           which the trustees determine will be available at  
5           the end of the test period for projected fund  
6           benefits. Such determination shall be made in  
7           the same manner used by the Combined Fund  
8           to calculate net assets available for projected  
9           fund benefits in the Statement of Net Assets  
10          (Deficits) Available for Fund Benefits for pur-  
11          poses of the monthly financial statements of the  
12          Combined Fund for the plan year beginning Oc-  
13          tober 1, 2003.

14          “(C) PROJECTED 3-MONTH ASSET RE-  
15          SERVE.—For purposes of subparagraph (A)(ii),  
16          the projected 3-month asset reserve is an  
17          amount equal to 25 percent of the projected ex-  
18          penses (including administrative expenses) from  
19          the health benefit premium account and unas-  
20          signed beneficiaries premium account for the  
21          plan year immediately following the test period.  
22          The determination of such amount shall be  
23          based on the 10-year forecast of the projected  
24          net assets and cash balance of the Combined

1 Fund prepared annually by an actuary retained  
 2 by the Combined Fund.

3 “(D) TEST PERIOD.—For purposes of this  
 4 section, the term ‘test period’ means, with re-  
 5 spect to any plan year, that plan year and the  
 6 following plan year.

7 “(c) REDUCED PER BENEFICIARY PREMIUM.—For  
 8 purposes of this section, the reduced per beneficiary pre-  
 9 mium for any plan year to which this section applies is  
 10 the per beneficiary premium determined under section  
 11 9704(b)(2) without regard to this section, reduced (but  
 12 not below zero) by—

13 “(1) the excess reserve for the plan year, di-  
 14 vided by

15 “(2) the total number of eligible beneficiaries  
 16 which are assigned to assigned operators under sec-  
 17 tion 9706 as of the close of the preceding plan year.

18 “(d) TERMINATION OF PREMIUM REDUCTION.—If,  
 19 on any day during a plan year to which this section ap-  
 20 plies, the Combined Fund has net assets available for pro-  
 21 jected fund benefits (determined in the same manner as  
 22 projected net assets under subsection (b)(2)(B)) in an  
 23 amount less than the projected 3-month asset reserve de-  
 24 termined under subsection (b)(2)(C) for the plan year—

1           “(1) this section shall not apply to months in  
2           the plan year beginning after such day, and

3           “(2) the monthly installment under section  
4           9704(g)(1) for such months shall be equal to the  
5           amount which would have been determined if the  
6           health benefits premium under section 9704(b) had  
7           not been reduced under this section for the plan  
8           year.”

9           (b) CONFORMING AMENDMENTS.—

10           (1) Section 9704(a) (relating to annual pre-  
11           miums) is amended by striking “Each” and insert-  
12           ing “Subject to section 9704A, each”.

13           (2) The table of sections for part II of sub-  
14           chapter B of chapter 99 is amended by inserting  
15           after the item relating to section 9704 the following  
16           new item:

“Sec. 9704A. Reductions in health benefit premium if surplus ex-  
ists.”

17           (c) EFFECTIVE DATE.—The amendments made by  
18           this section shall apply to plan years of the Combined  
19           Fund beginning after September 30, 2003.

1 **SEC. 114. REFUND OF CONTRIBUTIONS PAID BY CERTAIN**  
 2 **SMALL ENTITIES TO UNITED MINE WORKERS**  
 3 **COMBINED BENEFIT FUND.**

4 (a) IN GENERAL.—Part II of subchapter B of chap-  
 5 ter 99, as amended by section 113, is amended by insert-  
 6 ing after section 9704A the following new section:

7 **“SEC. 9704B. REFUNDS OF ANNUAL PREMIUMS OF CERTAIN**  
 8 **SMALL ENTITIES.**

9 “(a) GENERAL RULE.—The Combined Fund shall re-  
 10 fund to each eligible small entity any premiums paid by  
 11 the entity to the Combined Fund under section 9704 for  
 12 any plan year of the Combined Fund which began before  
 13 October 1, 2003. This section shall not apply to any pre-  
 14 mium which was previously refunded.

15 “(b) ELIGIBLE SMALL ENTITY.—For purposes of  
 16 this section, the term ‘eligible small entity’ means an as-  
 17 signed operator, but only if, as determined under the  
 18 records of the Combined Fund, such operator (or any re-  
 19 lated person of such operator)—

20 “(1) was not a signatory to the 1981 or later  
 21 National Bituminous Coal Wage Agreement or any  
 22 ‘me too’ agreement related to such Coal Wage  
 23 Agreement;

24 “(2) reported credit hours to the UMWA 1974  
 25 Pension Plan on fewer than ten classified mine  
 26 workers in every month during its last year of oper-

1        ations under the National Bituminous Coal Wage  
 2        Agreement of 1978 or any ‘me too’ agreement re-  
 3        lated to such Coal Wage Agreement;

4            “(3) has had not more than 60 beneficiaries, in-  
 5        cluding eligible dependents of retired miners, as-  
 6        signed to it under section 9706 (determined without  
 7        regard to beneficiary assignments relieved by the So-  
 8        cial Security Administration);

9            “(4) was assessed premiums by the Combined  
 10       Fund, made payments pursuant to those assess-  
 11       ments, and has no delinquency as of September 30,  
 12       2003; and

13           “(5) is not directly engaged in the production  
 14       or sale of coal engaged in the production of coal as  
 15       of September 30, 2003.”

16        (b) CONFORMING AMENDMENT.—The table of sec-  
 17       tions for part II of subchapter B of chapter 99 is amended  
 18       by inserting after the item relating to section 9704A the  
 19       following new item:

“Sec. 9704B. Refunds of annual premiums of certain small enti-  
 ties.”

20        (c) EFFECTIVE DATE.—The amendments made by  
 21       this section shall take effect on the date of the enactment  
 22       of this Act.

1 **SEC. 115. FIRST YEAR PAYMENTS OF 1988 OPERATORS.**

2 (a) IN GENERAL.—So much of section 9704(i)(1)(D)  
3 as precedes clause (ii) is amended to read as follows:

4 “(D) PREMIUM REDUCTIONS AND RE-  
5 FUNDS.—

6 “(i) 1ST YEAR PAYMENTS.—In the  
7 case of a 1988 agreement operator making  
8 payments under subparagraph (A)—

9 “(I) the premium of such oper-  
10 ator under subsection (a) shall be re-  
11 duced by the amount paid under sub-  
12 paragraph (A) by such operator for  
13 the plan year beginning February 1,  
14 1993, and

15 “(II) if the amount so paid ex-  
16 ceeds the operator’s liability under  
17 subsection (a), the excess shall be re-  
18 funded to the operator before Decem-  
19 ber 31, 2003.”

20 (b) EFFECTIVE DATE.—The amendment made by  
21 subsection (a) shall take effect on the date of the enact-  
22 ment of this Act.

23 **SEC. 116. LIABILITY IN THE EVENT OF PREFUNDING.**

24 (a) IN GENERAL.—Section 9704 is amended—

1           (1) by striking “Any” in the last sentence of  
 2           subsection (a) and inserting “Except as provided in  
 3           subsection (k), any”, and

4           (2) by adding at the end the following new sub-  
 5           section:

6           “(k) RELATED PERSONS RELIEVED OF LIABILITY  
 7 FUNDED THROUGH VOLUNTARY EMPLOYEES’ BENE-  
 8 FICIARY ASSOCIATION.—

9           “(1) IN GENERAL.—If a qualified voluntary em-  
 10          ployees’ beneficiary association is established with  
 11          respect to any signatory operator, then, as of the  
 12          date determined under paragraph (2)—

13                 “(A) the last sentence of subsection (a)  
 14          shall not apply to any related person with re-  
 15          spect to the operator (determined without re-  
 16          gard to this subsection), and

17                 “(B) all such persons shall permanently  
 18          cease to be treated for purposes of this sub-  
 19          chapter as related persons with respect to the  
 20          signatory operator.

21           “(2) TIMING OF LIMITATION ON LIABILITY.—  
 22          The date determined under this paragraph shall be  
 23          the first date by which all of the following have oc-  
 24          curred:



1           “(A) The qualified voluntary employees’  
 2           beneficiary association’s enrolled actuary (as  
 3           defined in section 7701(a)(35)), using actuarial  
 4           methods and assumptions each of which is rea-  
 5           sonable and which are reasonable in the aggre-  
 6           gate (as determined by such enrolled actuary),  
 7           determines the balance of funds held by the as-  
 8           sociation, resulting from 1 or more contribu-  
 9           tions to the association and earnings thereon,  
 10          equals or exceeds the sum of—

11                 “(i) the present value of the total pre-  
 12                 mium liability of the signatory operator for  
 13                 its assignees under section 9704 with re-  
 14                 spect to the Combined Fund, plus

15                 “(ii) the amount necessary to pay ad-  
 16                 ministrative and other incidental expenses  
 17                 of such association.

18           “(B) The enrolled actuary files a signed  
 19           actuarial report with the Secretary containing—

20                 “(i) the date of the actuarial valuation  
 21                 applicable to the report,

22                 “(ii) a description of the funding  
 23                 method and actuarial assumptions used to  
 24                 determine costs of the association,

1 “(iii) a statement by the enrolled ac-  
 2 tuary signing the report that to the best of  
 3 the actuary’s knowledge the report is com-  
 4 plete and accurate and that in the actu-  
 5 ary’s opinion the actuarial assumptions  
 6 used are in the aggregate—

7 “(I) reasonably related to the ex-  
 8 perience of the association and to rea-  
 9 sonable expectations, and

10 “(II) represent the actuary’s best  
 11 estimate of anticipated experience of  
 12 the association, and

13 “(iv) such other information as may  
 14 be necessary to fully and fairly disclose the  
 15 actuarial position of the association.

16 “(C) The signatory operator provides secu-  
 17 rity (in the form of a bond, letter of credit, or  
 18 cash escrow) to the trustees of the 1992  
 19 UMWA Benefit Plan which—

20 “(i) is solely for the purpose of paying  
 21 premiums for beneficiaries described in  
 22 section 9712(b)(2)(B),

23 “(ii) is in an amount equal to 1 year’s  
 24 liability of the signatory operator under  
 25 section 9711, determined by using the av-

1                   erage cost of such operator’s liability dur-  
 2                   ing its prior 3 calendar years, and

3                   “(iii) is to remain in place for a pe-  
 4                   riod of 5 years.

5                   “(D) 30 calendar days have elapsed after  
 6                   the report required by subparagraph (B) is filed  
 7                   with the Secretary, along with a description of  
 8                   the security required by subparagraph (C), and  
 9                   the Secretary has not notified the association’s  
 10                  enrolled actuary in writing that the require-  
 11                  ments of this subparagraph have not been satis-  
 12                  fied.

13                  “(3) QUALIFIED VOLUNTARY EMPLOYEES’ BEN-  
 14                  EFICIARY ASSOCIATION.—For purposes of this sub-  
 15                  section, the term ‘qualified voluntary employees’  
 16                  beneficiary association’ means, with respect to a sig-  
 17                  natory operator, an association described in section  
 18                  501(c)(9)—

19                  “(A) which is established by the operator,  
 20                  a related person to the operator (determined  
 21                  without regard to this subsection), or a member  
 22                  of a controlled group of corporations which in-  
 23                  cludes the operator;

24                  “(B) the purpose of which is exclusively—

1 “(i) to satisfy the premium liability of  
2 the signatory operator with respect to the  
3 Combined Fund,

4 “(ii) to fund health benefits provided  
5 pursuant to a collective bargaining agree-  
6 ment, including benefits for individuals  
7 covered by sections 9711 and 9712, or to  
8 fund premiums for insurance exclusively  
9 covering such benefits, and

10 “(iii) to pay administrative and other  
11 incidental expenses of such association;

12 “(C) no part of the assets of which may be  
13 used for, or diverted to, any purpose other than  
14 the purposes described in subparagraph (B);  
15 and

16 “(D) payments from which may be made  
17 for the purposes described in subparagraph  
18 (B)(ii) only to the extent that—

19 “(i) the signatory operator no longer  
20 has an obligation to make payments under  
21 subparagraph (B)(i); or

22 “(ii) during any annual accounting  
23 period of the association such payments do  
24 not exceed, in the aggregate, 90 percent of  
25 the excess of—

1 “(I) fair market value of the as-  
 2 sociation’s assets, over

3 “(II) the present value of the li-  
 4 ability described in subparagraph  
 5 (B)(i).

6 Amounts under subparagraph (D)(ii) shall be deter-  
 7 mined, as of the end of the association’s prior year  
 8 annual accounting period, by the association’s en-  
 9 rolled actuary (as defined in section 7701(a)(35))  
 10 using actuarial methods and assumptions each of  
 11 which is reasonable and which are reasonable in the  
 12 aggregate (as determined by such enrolled actuary).

13 “(4) OTHER RULES RELATING TO ASSOCIA-  
 14 TIONS.—For purposes of this subsection—

15 “(A) if a qualified voluntary employees’  
 16 beneficiary association makes a payment, the  
 17 association’s enrolled actuary shall, within 30  
 18 days after the end of the association’s annual  
 19 accounting period which includes the payment,  
 20 file with the Secretary an actuarial report con-  
 21 taining the information described in paragraph  
 22 (2)(B) and a statement that the requirements  
 23 of paragraph (3)(D) have been satisfied during  
 24 the prior year; and

1           “(B) a signatory operator, or member of  
 2           the controlled group of corporations which in-  
 3           cludes such signatory operator, which has pre-  
 4           viously established an association under section  
 5           501(c)(9) for purposes which include purposes  
 6           described in paragraph (3) may use funds from  
 7           such previously established association to fund  
 8           all or a portion of the association established  
 9           under this subsection.”

10       (b)       CONFORMING       AMENDMENT.—Section  
 11 419A(f)(5)(A) is amended by inserting “, including a  
 12 qualified voluntary employees’ beneficiary association (as  
 13 defined in section 9704(k))”.

14       (c) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply with respect to associations estab-  
 16 lished after the date of the enactment of this Act.

17 **SEC. 117. DEFINITION OF SUCCESSOR IN INTEREST.**

18       (a) IN GENERAL.—Subsection (c) of section 9701 is  
 19 amended by adding at the end the following new para-  
 20 graph:

21           “(8) SUCCESSOR IN INTEREST.—

22           “(A) SAFE HARBOR.—The term ‘successor  
 23 in interest’ shall not include any person—

24                   “(i) who is an unrelated person to a  
 25                   seller, and

1           “(ii) who purchases for fair market  
2           value assets, or all the stock of a related  
3           person, in a bona fide, arm’s-length sale  
4           which is subject to section 5 of the Securi-  
5           ties Act of 1933 (15 U.S.C. 77f et seq.) or  
6           the Securities Exchange Act of 1934 (15  
7           U.S.C.78a et seq.).

8           “(B) UNRELATED PERSON.—The term  
9           ‘unrelated person’ means a purchaser who does  
10          not bear a relationship to the seller described  
11          in section 267(b).

12          “(C) CONTINGENT LIABILITY.—This para-  
13          graph shall only apply if the contract for sale  
14          provides that, if the seller fails to make a pre-  
15          mium payment to the Combined Fund during  
16          the first 5 plan years beginning after the sale,  
17          then the purchaser shall be secondarily liable  
18          for any liability to the Combined Fund it would  
19          have had but for the provisions of this para-  
20          graph.

21          “(D) NO INFERENCE.—Nothing in this  
22          paragraph shall be construed to infer that a  
23          purchaser in a sale not described in this para-  
24          graph is a successor in interest.”

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall apply to transactions after the date  
 3 of the enactment of this Act.

4 **TITLE II—RETROACTIVE**  
 5 **PROVISIONS**

6 **SEC. 201. REFORM OF RETROACTIVE PROVISIONS OF COAL**  
 7 **INDUSTRY HEALTH BENEFIT SYSTEM.**

8 (a) AGREEMENTS COVERED BY HEALTH BENEFIT  
 9 SYSTEM.—

10 (1) IN GENERAL.—Section 9701(b)(1) (defining  
 11 coal wage agreement) is amended to read as follows:

12 “(1) COAL AGREEMENTS.—

13 “(A) 1988 AGREEMENT.—The term ‘1988  
 14 agreement’ means the collective bargaining  
 15 agreement between the settlers which became  
 16 effective on February 1, 1988.

17 “(B) COAL WAGE AGREEMENT.—The term  
 18 ‘coal wage agreement’ means the 1988 agree-  
 19 ment and any predecessor to the 1988 agree-  
 20 ment.”

21 (2) CONFORMING AMENDMENT.—Section  
 22 9701(b) (relating to agreements) is amended by  
 23 striking paragraph (3).

24 (b) DEFINITIONS APPLICABLE TO OPERATORS.—



1           (1) SIGNATORY OPERATOR.—Section 9701(c)(1)  
 2           (defining signatory operator) is amended to read as  
 3           follows:

4           “(1) SIGNATORY OPERATOR.—The term ‘signa-  
 5           tory operator’ means a 1988 agreement operator.”.

6           (2) 1988 AGREEMENT OPERATOR.—Section  
 7           9701(c)(3) (defining 1988 agreement operator) is  
 8           amended to read as follows:

9           “(3) 1988 AGREEMENT OPERATOR.—The term  
 10          ‘1988 agreement operator’ means—

11                 “(A) an operator which was a signatory to  
 12                 the 1988 agreement, or

13                 “(B) a person in business which, during  
 14                 the term of the 1988 agreement, was a signa-  
 15                 tory to an agreement (other than the National  
 16                 Coal Mine Construction Agreement or the Coal  
 17                 Haulers’ Agreement) containing pension and  
 18                 health care contribution and benefit provisions  
 19                 which are the same as those contained in the  
 20                 1988 agreement.

21          Such term shall not include any operator who was  
 22          assessed, and paid the full amount of, contractual  
 23          withdrawal liability to the 1950 UMWA Benefit  
 24          Plan, the 1974 UMWA Benefit Plan, or the Com-  
 25          bined Fund.”

1 (3) CONFORMING AMENDMENTS.—

2 (A) Section 9711(a) is amended by strik-  
3 ing “maintained pursuant to a 1978 or subse-  
4 quent coal wage agreement”.

5 (B) Section 9711(b)(1) is amended by  
6 striking “pursuant to a 1978 or subsequent  
7 coal wage agreement”.

8 (c) MODIFICATIONS TO REFLECT REACHBACK RE-  
9 FORMS.—

10 (1) BOARD OF TRUSTEES OF COMBINED  
11 FUND.—

12 (A) IN GENERAL.—Section 9702(b)(1) is  
13 amended—

14 (i) by striking “one individual who  
15 represents” in subparagraph (A) and in-  
16 serting “two individuals who represent”,

17 (ii) by striking subparagraph (B) and  
18 redesignating subparagraphs (C) and (D)  
19 as subparagraphs (B) and (C), respec-  
20 tively, and

21 (iii) by striking “(A), (B), and (C)” in  
22 subparagraph (C) (as so redesignated) and  
23 inserting “(A) and (B)”.

24 (B) CONFORMING AMENDMENT.—Section  
25 9702(b)(3) is amended to read as follows:

1           “(3) SPECIAL RULE.—If the BCOA ceases to  
 2       exist, any trustee or successor under paragraph  
 3       (1)(A) shall be designated by the 3 employers who  
 4       were members of the BCOA on October 24, 1992,  
 5       and who have been assigned the greatest number of  
 6       eligible beneficiaries under section 9706.”

7           (C) TRANSITION RULE.—Any trustee serv-  
 8       ing on the date of the enactment of this Act  
 9       who was appointed to serve under section  
 10       9702(b)(1)(B) of the Internal Revenue Code of  
 11       1986 (as in effect before the amendments made  
 12       by this paragraph) shall continue to serve until  
 13       a successor is appointed under section  
 14       9702(b)(1)(A) of such Code (as in effect after  
 15       such amendments).

16       (2) ASSIGNMENT OF BENEFICIARIES.—Section  
 17       9706 (relating to assignment of eligible bene-  
 18       ficiaries) is amended by adding at the end the fol-  
 19       lowing:

20       “(h) ASSIGNMENT AS OF OCTOBER 1, 2003.—

21       “(1) IN GENERAL.—Effective October 1, 2003,  
 22       the Commissioner of Social Security shall—

23       “(A) revoke all assignments to persons  
 24       other than 1988 agreement operators for pur-

1           poses of assessing premiums for periods after  
2           September 30, 2003,

3           “(B) make no further assignments to per-  
4           sons other than 1988 agreement operators, and

5           “(C) terminate all unpaid liabilities of per-  
6           sons other than 1988 agreement operators with  
7           respect to eligible beneficiaries whose assign-  
8           ment to such persons is pending on October 1,  
9           2003.

10          “(2) REASSIGNMENT UPON PURCHASE.—This  
11          subsection shall not be construed to prohibit the re-  
12          assignment under subsection (b)(2) of an eligible  
13          beneficiary.”

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